



January 27, 2006

HOUSE BILL No. 1281

DIGEST OF HB 1281 (Updated January 26, 2006 12:01 am - DI 92)

Citations Affected: IC 35-42; noncode.

Synopsis: Domestic violence. Makes domestic battery a Class D felony if: (1) the person who committed the offense has a previous unrelated conviction for a substantially similar crime in Indiana or any other jurisdiction; or (2) it is knowingly committed in the presence of a child less than 16 years of age. Makes strangulation a Class D felony.

Effective: July 1, 2006.

**Murphy, Thomas, Lawson L,
Van Haaften**

January 10, 2006, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2006, amended, reported — Do Pass.

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HB 1281—LS 6927/DI 106+



January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1281

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-42-2-1.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.3. (a) A person who
3 knowingly or intentionally touches an individual who:

4 (1) is or was a spouse of the other person;

5 (2) is or was living as if a spouse of the other person as provided
6 in subsection ~~(b)~~; **(c)**; or

7 (3) has a child in common with the other person;
8 in a rude, insolent, or angry manner that results in bodily injury to the
9 person described in subdivision (1), (2), or (3) commits domestic
10 battery, a Class A misdemeanor.

11 **(b)** However, the offense **under subsection (a)** is a Class D felony
12 if the person **who committed the offense**:

13 **(1)** has a previous, unrelated conviction:

14 **(A)** under this section (or IC 35-42-2-1(a)(2)(E) before its
15 repeal); **or**

16 **(B)** in any other jurisdiction, including a military court, in
17 which the elements of the crime for which the conviction

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1 was entered are substantially similar to the elements
 2 described in this section; or
 3 **(2) committed the offense in the physical presence of a child**
 4 **less than sixteen (16) years of age, knowing that the child was**
 5 **present and might be able to see or hear the offense.**

6 ~~(b)~~ **(c)** In considering whether a person is or was living as a spouse
 7 of another individual in subsection (a)(2), the court shall review the
 8 following:

- 9 (1) the duration of the relationship;
- 10 (2) the frequency of contact;
- 11 (3) the financial interdependence;
- 12 (4) whether the two (2) individuals are raising children together;
- 13 (5) whether the two (2) individuals have engaged in tasks directed
- 14 toward maintaining a common household; and
- 15 (6) other factors the court considers relevant.

16 SECTION 2. IC 35-42-2-9 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2006]: **Sec. 9. (a) This section does not apply to a medical**
 19 **procedure.**

20 **(b) A person who knowingly or intentionally:**
 21 **(1) applies pressure to the throat or neck of another person;**
 22 **or**
 23 **(2) obstructs the nose or mouth of the another person;**
 24 **in a manner that impedes the normal breathing or the blood**
 25 **circulation of the other person commits strangulation, a Class D**
 26 **felony.**

27 SECTION 3. [EFFECTIVE JULY 1, 2006] IC 35-42-2-1.3, as
 28 amended by this act, and IC 35-42-2-9, as added by this act, apply
 29 only to crimes committed after June 30, 2006.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1281, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 35-42-2-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided in subsection ~~(b)~~; **(c)**; or
- (3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense **under subsection (a)** is a Class D felony if the person **who committed the offense**:

- (1)** has a previous, unrelated conviction:
 - (A)** under this section (or IC 35-42-2-1(a)(2)(E) before its repeal); or
 - (B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or**
- (2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.**

~~(b)~~ **(c)** In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

- (1) the duration of the relationship;
- (2) the frequency of contact;
- (3) the financial interdependence;
- (4) whether the two (2) individuals are raising children together;
- (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
- (6) other factors the court considers relevant.

SECTION 2. IC 35-42-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2006]: **Sec. 9. (a) This section does not apply to a medical procedure.**

(b) A person who knowingly or intentionally:

**(1) applies pressure to the throat or neck of another person;
or**

**(2) obstructs the nose or mouth of the another person;
in a manner that impedes the normal breathing or the blood
circulation of the other person commits strangulation, a Class D
felony."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1281 as introduced.)

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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